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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/583,958	05/31/2000	Ron Campbell Allan	AUS9-2000-0254-US1	2335

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EXAMINER

NGUYEN, DUSTIN

ART UNIT	PAPER NUMBER
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2154

DATE MAILED: 11/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/583,958

Applicant(s)

ALLAN ET AL.

Examiner

Dustin Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 31 May 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☒ Interview Summary (PTO-413)
Paper No(s)/Mail Date 11/18/2004
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

1. Claims 1 – 21 are presented for consideration.

Response to Arguments

2. Applicant's arguments filed 08/23/2004 have been fully considered but they are not persuasive.
3. As per remarks, Applicants' argued that (1) the act of sending parameters to the agent modules of Pandya reference is not equivalent or analogous to the feature in the present application in which the monitoring agent scans the network traffic for a particular type of transaction that is being sent to a server in order to request that the server subsequently change the operational parameters of the monitoring agent.
4. As to point (1), Pandya discloses the monitoring agent scans the network traffic [i.e. a monitoring agent monitors network traffic and obtain information by hooking into the winsock interface] [col 10, lines 27-29; and col 11, lines 8-15] for a particular type of transaction that is being sent to a server in order to request that the server subsequently change the operational parameters of the monitoring agent [i.e. in response to monitored network conditions and data reported by agents, the control points alter the behavior of particular agents in order to provide the desired network services] [col 7, lines 29-33; and col 9, lines 1-30].

5. As per remarks, Applicants' argued that (2) Lin does not have any features that are even remotely analogous to the third element of claim 1, "in response to a positive determination ... update of the operational parameters of the monitoring agent".

6. As to point (2), Lin discloses the above limitation [i.e. network element reports or raises alarm when its parameters exceed their threshold values [col 6, lines 12-23] and NMS instructs NE to change its reporting] [col 6, lines 24-33]].

7. As per remarks, Applicants' argued that (3) the present invention is directed to a specific process for the exchange of configuration information between a management server and the distributed monitoring agents; this exchange is triggered by a certain class of events that are detected by a monitoring agent.

8. As to point (3), Pandya discloses the exchange of configuration information between a management server and monitoring agent [i.e. interact] and it is triggered by a certain class of event [i.e. conditions] that are detected by a monitoring agent [col 8, lines 21-31].

9. In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge

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generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, it would have been obvious to combine the references because the teaching of updating parameters of Lin's invention would provide a method step of effective fault diagnosis and disaster avoidance to the system of Pandya [Col 2, lines 21-22].

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 1, 2, 5-9, 12-16, 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pandya et al. [US Patent No 6,671,724], in view of Lin et al. [US Patent No 6,405,250].

12. As per claim 1, Pandya discloses the invention substantially as claimed including a method for updating operational parameters of a monitoring agent on a client in a distributed data processing system, the monitoring agent monitoring characteristics of at least one application executing on a server in the distributed data processing system, the method comprising the steps of:

filtering, by the monitoring agent, network data from the client to the server [col 10, lines 12-52];

determining, by the monitoring agent, whether an outgoing transaction in the network data is addressed such that an application on the server receives the outgoing transaction as a request to change the operational parameters of the monitoring agent [col 8, lines 46-64; col 11, lines 24-35].

Pandya does not specifically disclose
in response to a positive determination that the outgoing transaction is addressed such that an application on the server receives the outgoing transaction as a request to change the operational parameters of the monitoring agent, sending a request from the monitoring agent to the server to send to the monitoring agent an update of the operational parameters of the monitoring agent.

Lin discloses
in response to a positive determination that the outgoing transaction is addressed such that an application on the server receives the outgoing transaction as a request to change the operational parameters of the monitoring agent, sending a request from the monitoring agent to the server to send to the monitoring agent an update of the operational parameters of the monitoring agent [col 7, lines 37-50; and col 8, lines 29-38].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Pandya and Lin because Lin's teaching of monitoring agent sending request would allow reduce network traffic to prevent congestion in a communication network.

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13. As per claim 2, Pandya discloses

receiving, at the monitoring agent, the update of the operational parameters of the monitoring agent [col 13, lines 65-col 14, lines 11]; and

storing updated operational parameters on the client in a manner accessible to the monitoring agent [col 13, lines 35-38].

14. As per claim 5, Pandya discloses the request for an update of the operational parameters of the monitoring agent is addressed with a URI stored as an operational parameter of the monitoring agent on the client [col 8, lines 65-col 9, lines 30].

15. As per claim 6, it is rejected for similar reasons as stated in claim 1.

16. As per claim 7, it is rejected for similar reasons as stated above in claim 1. Furthermore, Pandya discloses

parsing the outgoing transaction for an Internet Protocol (IP) address [col 2, lines 41-46];

matching the IP address with an IP address stored as an operational parameter of the monitoring agent on the client [col 21, lines 17-37].

17. As per claims 8, 9, 12-14, they are apparatus claimed of claims 1, 2, 5-7, they are rejected for similar reasons as stated above in claims 1, 2, 5-7.

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18. As per claims 15, 16, 19-21, they are program product claimed of claims 1, 2, 5-7, they are rejected for similar reasons as stated above in claims 1, 2, 5-7.

19. Claims 3, 4, 10, 11, 17 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pandya et al. [US Patent No 6,671,724], in view of Lin et al. [US Patent No 6,405,250], and further in view of Inakoshi [US Patent No 5,933,604].

20. As per claim 3, it is rejected for similar reasons as stated above in claim 1. Furthermore, Pandya and Lin do not specifically disclose

parsing the outgoing transaction for a Uniform Resource Identifier (URI);

matching the URI with a URI stored as an operational parameter of the monitoring agent on the client.

Inakoshi discloses

parsing the outgoing transaction for a Uniform Resource Identifier (URI) [col 11, lines 16-26];

matching the URI with a URI stored as an operational parameter of the monitoring agent on the client [col 5, lines 12-20; and col 9, lines 60-65].

It would have been obvious to a person skill in the art at the time the invention was made to combine the teaching of Pandya, Lin and Inakoshi because the parsing of Inakoshi would help to identify needed requests coming from multiple sources of information.

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21. As per claim 4, Inakoshi discloses the URI is a Uniform Resource Locator (URL) embedded within a Hypertext Transport Protocol (HTTP) request [Figure 9; and col 15, lines 19-28].

22. As per claims 10, 11, they are apparatus claimed of claims 3, 4, they are rejected for similar reasons as stated above in claims 3, 4.

23. As per claims 17, 18, they are program product claimed of claims 3, 4, they are rejected for similar reasons as stated above in claims 3, 4.

24. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

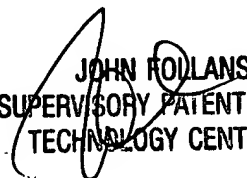
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dustin Nguyen whose telephone number is (703) 305-5321. The examiner can normally be reached on flex.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Follansbee John can be reached on (703) 305-8498. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


JOHN FOLLANSBEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100

Dustin Nguyen
Examiner
Art Unit 2154